

# UNDERGROUND STORAGE TANK PROGRAM - STATE PROGRAM APPROVAL (SPA) (MISSOURI)

## ISSUE SUMMARY:

States can apply to receive state program approval or “SPA” to implement the underground storage tank (UST) program in lieu of the federal regulations. To assure that state programs remain as stringent as updated federal regulations, states must submit an application for reapproval (“re-SPA”) to EPA following changes to federal regulations.

Region 7 (R7) is currently evaluating the Missouri Department of Natural Resources (MDNR) re-SPA application for completeness and adequacy given concerns about the state program’s funding, the roles and responsibilities of the agencies implementing the program, and deficiencies in the state financial assurance mechanism. It is anticipated that this issue could generate political attention within Missouri. Through its program review process, EPA has identified several deficiencies with the state’s UST Program and the way Missouri’s Petroleum Storage Tank Insurance Fund (PSTIF) has operated as the Financial Responsibility mechanism for the program. During the past year, R7 has engaged key parties in Missouri about these deficiencies which need to be addressed to assure an adequate program. In addition to evaluating the re-SPA application, R7 continues to consider other approaches to resolving these deficiencies, including potential withdrawal of the state fund as a financial responsibility mechanism.

## UPCOMING MILESTONES:

R7 is evaluating MDNR’s re-SPA application to address issues related to MDNR and PSTIF roles and responsibilities. How those issues evolve over the coming months will inform our evaluation of the re-SPA application.

Additionally, Missouri still has the ability to resolve these issues independently.

## BACKGROUND:

Pursuant to Section 9004 of the Solid Waste Disposal Act (SWDA) and 40 C.F.R. Parts 280 and 281, EPA has oversight responsibility of state UST programs to ensure they are being implemented in accordance with minimum federal requirements. R7 identified several deficiencies with Missouri’s UST Program and the way the Missouri’s PSTIF has been operating as the Financial Responsibility mechanism through its program reviews. R7 has been working with MDNR and PSTIF for several years to resolve these issues.

R7 received the MO UST/LUST Program re-SPA Application in January 2019 and requested clarifying and additional information which MDNR provided in August 2019. As identified in the 2016 program review, deficiencies that inform our evaluation include:

1. Concerns regarding adequate and consistent state programmatic funding.
2. Questions on whether the description of the organization and structure of the program accurately reflects how MDNR and PSTIF interact and whether MDNR is the sole agency authorized for program implementation as represented in the application.

3. PSTIF's past practice of counting legal defense costs in the total amount of required financial assurance which is inconsistent with both state and federal law. This deficiency appears to have been resolved pending EPA evaluations of supporting documents provided by PSTIF.

KEY EXTERNAL STAKEHOLDERS:

- ☐ Congress    ☒ Industry    ☒ States    ☐ Tribes    ☐ Media    ☐ Other Federal Agency  
☐ NGO    ☐ Local Governments    ☒ Other (name of stakeholder) PSTIF

MOVING FORWARD:

- R7 continues to evaluate all the options available to address the remaining deficiencies.
- In the short term, further evaluation of the re-SPA application and informal follow up with MDNR could provide a pathway to solve the outstanding deficiencies.
- R7 will ultimately need to approve or disapprove MDNR's re-SPA application.

LEAD OFFICE/REGION: REGION 7    OTHER KEY OFFICES/REGIONS: OUST/OGC